

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Alexandria Division)**

KLUMBA.UA, LLC,

Plaintiff,

v.

DMYTRO DUBYNA, KLUMBA.COM,
LTD, and KLUMBA.COM,

Defendants.

Case No. 1:15-cv-00760-GBL-MSN

DECLARATION OF DMYTRO DUBYNA

Pursuant to 28 U.S.C. § 1746, and in support of Defendants Motion to Set Aside Judgment, I, Dmytro Dubyna, hereby declare as follows:

1. I am over 18 years of age, suffer from no legal disabilities, and am otherwise competent to make this declaration. The matters set forth herein are true of my own personal knowledge. If called to testify, I could and would competently testify as to the facts set forth herein.

2. I am a citizen of Ukraine.

3. I do not lease, sublease, or own any real or personal property in Virginia. I have never traveled to Virginia. I have never transacted any business in Virginia. I have no contacts with Virginia.

4. To my knowledge, Defendant Klumba.com LTD does not exist.

5. I only discovered this lawsuit after the April 11, 2016 Amended Judgment had been entered, when I searched for registrant information related to klumba.com. Before that time, I did not receive notice of the Complaint, Amended Complaint, or this lawsuit via mail,

electronic mail, or otherwise before that time. Neither did I receive notice of any default or judgment entered in this case.

6. My address, which I provided to the registrar of klumba.com, is 15, Tcheliabinksa Street, 145, Kiev, 02002, Ukraine. That address is listed as my registrant information on documents Plaintiff filed in this action. *See* [DE 5-2]. It is also listed on Plaintiff's Bylaws, which were also filed in this action. *See* [DE 5-5] at 14. I receive mail at this address.

7. I did not receive any notice or paper concerning this lawsuit at 15, Tcheliabinksa Street, 145, Kiev, 02002, Ukraine.

8. My email address is dima.dubina@gmail.com. I provided that email address to the registrar of klumba.com. That email address is listed as my registrant information on documents Plaintiff filed in this action. *See* [DE 5-2].

9. I did not receive any notice or paper concerning this lawsuit at dima.dubina@gmail.com.

10. I do not reside, nor have I ever resided at Ul Proreznaya, 25 Kiev, 02000, Ukraine. I am not familiar with that address and I have never used that address for any purpose. I have no access to mail delivered to that address. I did not provide that address to the registrar of klumba.com.

11. I have no access to or affiliation with the email address klumba.com.ltd@gmail.com. I have never used that email address for any purpose. I did not provide that email address to the registrar of klumba.com.

12. On or around September 30, 2010, I co-founded Plaintiff, along with three partners: Andrey Khorsev, Aleksey Ivankin, and Natalia Zueva. Mrs. Zueva is my wife. I am an owner and member of Plaintiff.

13. Since approximately spring of 2013, I have been involved in litigation, pending in Ukraine, with two other members of Klumba.com LLC, Andrey Khorsev and Aleksey Ivankin. During that time, I have had regular contact with Plaintiff and with these members related to that litigation. Despite the continuing litigation with Andrey Khorsev and Aleksey Ivankin in Ukraine, and my regular contacts with them related to that litigation, neither Andrey Khorsev nor Aleksey Ivankin notified me of this lawsuit in any way.

14. I believe that Andrey Khorsev and Aleksey Ivankin caused Plaintiff to file this lawsuit.

15. Plaintiff and its members, including Andrey Khorsev and Aleksey Ivankin, are well aware of my physical address and my email address. Indeed, my address is listed in Plaintiff's Bylaws that were filed in this lawsuit. *See* [DE 5-5] at 14. Plaintiff and its members know how to contact me and have done so on numerous occasions.

16. Because I do not travel to the United States regularly, I do not read the Washington Post and did not see any notice of this lawsuit in the Washington Post.

17. When I discovered this lawsuit, I immediately sought legal counsel in the United States to protect my interests.

18. Had I received notice of this lawsuit, I would have responded to the allegations therein. I vigorously contest several of Plaintiff's allegations. The Amended Complaint omits information that is unfavorable to Plaintiff, specifically:

- (a) In 2008, Natalia Zueva and I created a website using the domain name klumba.kiev.ua and began using the Klumba mark.
- (b) In June 2010, Mrs. Zueva registered the trademark Klumba in Ukraine. She also registered the domain name Klumba.ua.
- (c) In September 2010, Mrs. Zueva and I founded Plaintiff Klumba.UA LLC, along with Andrey Khorsev and Aleksey Ivankin. Andrey Khorsev was designated as the director of Klumba.UA LLC. Around the same time, Mrs. Zueva transferred the domain name klumba.ua and Klumba mark to Klumba.UA LLC.
- (d) In November 2012, Mrs. Zueva and I bought the domain name klumba.com.
- (e) Mrs. Zueva and I established a redirect from the domain name klumba.com to klumba.ua. As part of this process, Mrs. Zueva provided access to the registrant account for klumba.com to Aleksey Ivankin. Mr. Ivankin then provided Klumba.UA LLC's contact information, including the email address klumbiko@gmail.com, to the registrar of klumba.com. Neither Mrs. Zueva nor I transferred ownership, intended to transfer ownership, or authorized anyone to transfer ownership of the klumba.com domain name to Plaintiff, Andrey Khorsev, or Aleksey Ivankin.
- (f) Neither Plaintiff, Andrey Khorsev nor Aleksey Ivankin have any ownership interest in the domain name klumba.com. Mrs. Zueva and I own the klumba.com domain name.

- (g) In February 2013, the domain name klumba.com was transferred to me. My registrant information was provided to the registrar of klumba.com.
- (h) In the spring of 2013, a conflict began among the members of Klumba.UA LLC when Andrey Khorsev and Aleksey Ivankin attempted to seize control of the company. Mrs. Zueva and I were on one side. Andrey Khorsev and Aleksey Ivankin were on the other. This conflict gave rise to the litigation pending in Ukraine mentioned above.
- (i) On November 25, 2013, the Klumba trademark was awarded to Mrs. Zueva by a Ukrainian court. The Klumba mark is currently held by a third party, but Mrs. Zueva has a license to use the mark.
- (j) Neither Plaintiff, Andrey Khorsev, nor Aleksey Ivankin have any ownership interest in the Klumba trademark.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 27 day of April 2016.

Dmytro Dubyna

